

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RONALD STANLEY : CIVIL ACTION  
v. :  
MR. R. SHANNON, et al. : NO. 07-cv-1840

**MEMORANDUM AND ORDER**

The Antiterrorism and Effective Death Penalty Act of 1996 (commonly known as “AEDPA,” and codified as 28 U.S.C. §§2241-2266) deals with the right of all persons in state custody, or in federal custody, to file a petition in a federal court seeking the issuance of a writ of habeas corpus; if such a writ of habeas corpus is issued by a federal court, the prisoner will be released from custody or custody.

By means of AEDPA, Congress provided that in the context of a petitioner who is in state custody, a writ of habeas corpus may issue pursuant to 28 U.S.C. §2254 for **constitutional** attacks on the validity of a state conviction and/or a state sentence. Benchoff v. Colleran, 404 F.3d 812 (3<sup>rd</sup> Cir. 2005); Coady v. Vaughn, 251 F.3d 480 (3<sup>rd</sup> Cir. 2001). Petitioner in this matter raises just one argument, namely that he allegedly has newly discovered evidence that could not have previously been discovered.<sup>1</sup> The court is of the view that whereas there is no indication of a Constitutional argument in this matter, that without further information, this matter must be re-characterized as a 28 U.S.C. §2241 petition.

Accordingly, this Day of June, 2007, it is hereby  
**ORDERED** as follows:

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<sup>1</sup>We note that nowhere in his petition does petitioner state what this alleged new evidence is.

1. 07-cv-1840 shall be re-characterized by this Court as a petition seeking habeas corpus relief pursuant to 28 U.S.C. §2241.

2. In accordance with the procedure for the related assignment of habeas corpus cases, Local Civil Rule 72.1 and 28 U.S.C. §636, 07-cv-1840 is referred to the Honorable Timothy R. Rice, United States Magistrate Judge, for a Report and Recommendation as related to 06-cv-0323.

3. As per Local Civil Rule 72.1.IV(c), all issues and evidence shall be presented to the United States Magistrate Judge, and new issues and evidence shall not be raised after the filing of the Report and Recommendation if they could have been presented to the United States Magistrate Judge.

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**S/ ROBERT F. KELLY**  
**ROBERT F. KELLY, U.S. District Judge**

